

ROBERT AUMILLER

IBLA 86-1285

Decided November 24, 1986

Appeal from a decision of the Fairbanks District Office, Bureau of Land Management, deeming the Shalom Association #5 and #6 unpatented association placer mining claims (F-24208 and F-24209) to be abandoned and void.

Reversed.

1. Federal Employees and Officers: Generally--Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Recordation

There is a rebuttable presumption that administrative officers properly discharge their duties and do not lose or misfile documents. However, when the computer printout listing the documents filed for a mining claim lists an affidavit of assessment work as having been timely filed, that evidence will overcome the presumption that the document was not filed arising from its not being in the case file.

APPEARANCES: Robert Aumiller, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Robert Aumiller appeals from a May 13, 1986, decision of the Fairbanks District Office, Bureau of Land Management (BLM), declaring the Shalom Association #5 and Shalom Association #6 unpatented association placer claims, F-24208 and F-24209, abandoned and void "because no Assessment Affidavit or Notice of Intent to Hold was filed for 1978" (Decision at 1).

Appellant asserts he and another person did the annual labor on the claims and filed a copy of the affidavit of labor with the Fairbanks District Office, BLM, on December 14, 1978.

The files for the claims in question contain no copy of the affidavit of assessment work for the year 1978 other than the copy filed as a part of appellant's statement of reasons and date stamped June 12, 1986. ^{1/} However, a case file abstract, which is a computer printout of the documents filed for

^{1/} That copy was date stamped as having been received by the local recording district on Oct. 19, 1978.

the claims, similar to an index of filings customarily kept by a county recorder, contains the following line item notations:

For F-24208 (Shalom Association #5):

3. 12/14/78 480 Evdnce of Assmnt Filed 1978 PSF PPN

For F-24209 (Shalom Association #6):

3. 12/14/78 480 Evdnce of Assmnt Filed 1978 PSF PPN

[1] There is a rebuttable legal presumption that administrative officials properly discharge their duties and that they do not lose or misfile documents filed with them. However, when there is evidence the documents were, in fact, filed, that presumption is overcome. In this case, the application of the presumption results in an apparent impasse. Either the document was improperly logged in the computer as having been received or it has been lost.

Logic dictates the assumption that the document was properly logged as having been received. The act of typing an entry to the computer memory bank is a positive act which implies the existence of the document at the time of logging the entry. On the other hand, the file is open to the public and handled each time a new document is introduced. The files for the various documents are similar in character and the possibility of either losing or misplacing the document in the over 7-year period between filing the document and issuance of the decision is much greater than the possibility that a nonexistent document was logged as having been received. Therefore, a notation of receipt of the document on the computer printout is sufficient to overcome the presumption that the document was not subsequently lost. See Robert T. Reynolds, 61 IBLA 52 (1981); L. E. Garrison, 52 IBLA 131 (1981). We find sufficient evidence to conclude that an affidavit of labor was filed for the Shalom Association #5 and Shalom Association #6 unpatented association placer mining claims (F-24208 and F-24209) on December 14, 1978.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

R. W. Mullen
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge

